

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

FILE COPY

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IN THE MATTER OF	:	
THE LICENSE OF	:	FINAL DECISION
	:	AND ORDER
ARNE T. LAGUS, M.D.,	:	ADOPTING STIPULATION
RESPONDENT.	:	

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The parties to this action for the purposes of Wis. Stats., sec. 227.53 are:

Arne T. Lagus, M.D.  
208 South Adams  
St. Croix Falls, WI 54024

Wisconsin Medical Examining Board  
P.O. Box 8935  
Madison, Wisconsin 53708-8935

Department of Regulation & Licensing  
Division of Enforcement  
P.O. Box 8935  
Madison, Wisconsin 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Arne T. Lagus, M.D., Respondent herein, of 208 South Adams Street, St. Croix Falls, Wisconsin 54024, is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin, and that his license bears #15883 and was granted on January 11, 1967.
2. That from August 21, 1975 through April 28, 1976, Respondent as a family practitioner provided medical care and treatment for patient A for possible pregnancy, pregnancy and prenatal care, labor, and delivery of her son, patient B.
3. That patient A consulted Respondent on or about August 21, and September 12, 1975 for possible pregnancy because she had not had a menstrual period since June 17, 1975.
4. Respondent recorded in his medical records for patient A on August 21, 1975 that patient A had continued taking contraceptive pills after her last menstrual period on June 17, 1975 until her next expected menstrual period in July, 1975, and that she had skipped taking her contraceptive pills

now and then. Respondent examined patient A on August 21, 1975 for pregnancy, and obtained a Gravindex pregnancy test which was negative. Respondent prescribed Provera at 10 mgs., one a day for five days for patient A to attempt to bring on her menstrual period.

5. Respondent examined patient A again on September 12, 1975 for possible pregnancy, did not obtain a pregnancy test, and concluded she was not pregnant.

6. On December 10, 1975, Respondent again examined patient A because she still had not had a menstrual period since June 17, 1975, found her to be pregnant, and recorded that she must have been pregnant at the time he examined J.H. on September 12, 1975.

7. Respondent calculated the estimated date of confinement (EDC) to be March 24, 1976, based on patient A's last menstrual period of June 17, 1975, even though her last menstrual period was a pill withdrawal period.

8. Respondent examined patient A on February 17, 1976 and March 22, 1976 pursuant to a course of prenatal care of patient A and on each date noted that the uterus appeared small for the calculated gestational age.

9. Despite disparity between the size of the fetus and the EDC noted on February 17, 1976 and March 22, 1976, Respondent did not investigate the disparity such as refining the EDC, or obtaining an obstetrical consult to rule out complications such as intrauterine growth retardation (IUGR).

10. On passing of the original March 24, 1976 EDC without indication that labor and delivery were imminent, Respondent changed the EDC to late April, 1976 without evaluation or having obtained an obstetrical consultation to rule out potential complications.

11. On April 5, 1976, pelvimetry x-rays confirmed Respondent's suspicion of a breech presentation, but did not include a view of the fetal upper torso and head. Respondent did not obtain further x-rays of the fetal head, nor obtain an obstetrical consultation before deciding on and recommending a vaginal delivery of the breech presenting fetus.

12. Patient A was admitted to the hospital on April 27, 1976 at 11:40 p.m. in active labor and Respondent was notified of the admission. Fetal heart tones noted through the labor ranged from 124 to 144, and meconium staining was noted. Respondent received status reports from the nurses at 4:35 a.m. at which time Respondent ordered Demerol IV at 25 mg., and at 5:05 a.m. when the presenting part of the frank breech-position baby was visible. Respondent first arrived at the hospital to care for the mother and baby at 5:25 a.m. on April 28, 1976.

13. Presentation of patient B at birth was by frank breech. Respondent converted the frank breech to a right single footling breech, then rotated the baby, delivered the left leg, then pulled the body down and delivered the arms. The baby's head became "hung up" for a period of time.

14. The baby, patient B, was born at 6:15 a.m. on April 28, 1976, five weeks past the EDC of March 24, 1976 as calculated by Respondent on the basis of a last menstrual period of patient A on June 17, 1975. Patient B at birth weighed 4 lbs. 14 oz. and had no vernix. Patient B at birth was severely depressed, flaccid, lacked muscle tone, had no spontaneous respirations, but had a pulse of 40. Patient B had an APGAR of 1 at birth, 1 after five minutes, and 4 after one hour. Upon birth, patient B required resuscitation efforts including cardiac massage, insertion of an endotracheal tube and bag breathing with oxygen for one hour. The endotracheal tube had been inserted but then got pulled out during resuscitation efforts, with continuation of bag breathing.

15. The Department's independent expert opinion is that Respondent's conduct in providing medical care and treatment for patients A and B described in paragraphs 2 through 15, fell below minimal standards of competent medical practice in these circumstances, and tended to constitute a danger to the health, welfare, and safety of the patients, in that Respondent failed to suspect, recognize, evaluate and manage compounded high-risk complications to the pregnancy and delivery of patients A and B, respectively, or obtain obstetrical consultation therefor, in the following respects:

a. Respondent failed to suspect or recognize the high-risk complication of fetal intrauterine growth retardation, indicated by the disparity noted between the apparent size of the fetus and the estimated date of confinement.

b. Upon passing of the EDC of March 24, 1976, without signs of imminent labor and delivery, Respondent revised the EDC to late April, 1976 without evaluation or obtaining an obstetrical consultation to rule out additional potential complications.

c. On and after April 5, 1976, Respondent failed to obtain a complete x-ray view of the fetus, including the head, precluding a full assessment of the risks of vaginal delivery of the breech presenting, growth retarded fetus, which resulted in injuries to the fetus from difficult and delayed delivery.

d. In light of the compounded high-risk complications of intrauterine growth retardation and breech presentation, Respondent failed to recommend and perform a Cesarean section delivery of the baby, which was indicated in the circumstances.

e. Respondent failed to competently manage and perform the vaginal breech delivery of the baby, which created the unacceptable risk of and caused injury to the baby, including birth trauma, asphyxia, hypoxia and acidosis.

16. Dr. Lagus represents:

a. That from 1986 to the present, he has voluntarily reduced and discontinued routine management of both complicated and uncomplicated obstetrics cases. Dr. Lagus continues to conduct initial obstetrical examinations of patients presenting indications of possible pregnancy and makes referral of such patients to other physicians as appropriate.

- b. Respondent does not provide on-call or backup medical service for pregnancy related cases.
- c. Respondent does provide emergency room service coverage. Upon presentation, or notice of imminent arrival, of a pregnancy related case in the emergency room, Respondent immediately calls for the primary family physician providing primary obstetrical care to assume responsibility for the case.

17. As of February 20, 1990, the Department of Regulation and Licensing, Division of Enforcement, has no notice of any other complaint concerning the medical practice of Respondent.

18. Respondent is board certified in family practice since November 1975 and obtained recertification in 1982 and 1988. Respondent obtained certification of added qualification in geriatric medicine in 1988.

19. In consequence and consideration of resolution of this matter, Respondent has enrolled in and completed a course in Normal Obstetrics through the University of Wisconsin-Madison School of Medicine and Office of Continuing Medical Education. The course was specifically adapted to address the education needs as demonstrated through the care and treatment of the patient in this case. The course consisted of a total of approximately 82 hours of clinical instruction, evaluation and examination and qualifies for 82 Category I Continuing Medical Education Credits.

20. The course of instruction in Normal Obstetrics referred to in Finding of Fact #19 was designed to allow the Respondent to meet the following objectives:

- a. Review the changes occurring during pregnancy and the care of the mother and fetus antenatally.
- b. Demonstrate obstetrical skills, by performance under supervision of approximately 30 deliveries.
- c. Review the mechanisms and management of common abnormalities occurring during labor and delivery.

21. The components of the course of instruction in Normal Obstetrics consisted of the following:

- a. COURSE OF STUDY. Successful completion of a two week Visiting Fellowship, under the direction of Herbert F. Sandmire, M.D.
- b. EVALUATION:
  - 1. Completion of a written examination.
  - 2. Fulfill the requirements and objectives of the Visiting Fellowship program.
  - 3. Completion of an oral examination.

22. Respondent has completed and met the educational objectives of the Normal Obstetrics course described above. A copy of the evaluation report on Respondent's performance in the Normal Obstetrics course is attached as Exhibit A.

#### CONCLUSIONS OF LAW

1. The Wisconsin Medical Examining Board has jurisdiction in this matter pursuant to Section 448.02(3) and Section 227.44(5), Wis. Stats.

2. That the acts and omissions of Respondent's conduct as described in paragraphs 2 through 15 of the Findings of Fact, constituted unprofessional conduct within the meaning of Wis. Stats. sec. 448.02(3) and Wisconsin Administrative Code Section Med 10.02(2)(h) in that Respondent's conduct failed to meet minimal standards of competent medical practice in the care and treatment rendered to the patients in this case, which conduct tended to constitute a danger to the health, welfare and safety of the patients.

Therefore, it is hereby ORDERED:

1. That the stipulation of the parties is hereby accepted and adopted.

2. It is FURTHER ORDERED in consideration of the voluntary reduction of obstetrics practice as represented by Dr. Lagus in paragraph 16 of the Findings of Fact, that Respondent Arne T. Lagus having enrolled in, successfully completed and achieved the objectives in the course of study in Normal Obstetrics specifically adapted in consequence of this case and proceeding is hereby accepted in lieu of other discipline.

The rights of a party aggrieved by this Decision to petition the Board for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information."

#### WISCONSIN MEDICAL EXAMINING BOARD

By:

Michael P. Mehl  
A Member of the Board

8-22-91  
Date

I, Arne T. Lagus, have read and understand the foregoing Final Decision and Order, and hereby consent to entry of the foregoing Final Decision and Order by the Wisconsin Medical Examining Board, pursuant to the attached Stipulation.

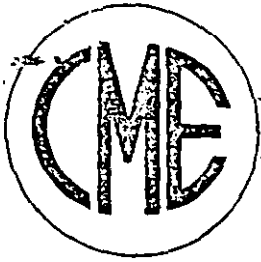
Arne Lagus  
Arne T. Lagus, M.D., Respondent

6-27-91  
Date

John C. Carlson  
John C. Carlson  
Attorney for Respondent

7/10/91  
Date

RTG:jrb  
DOEATTY-899



University of Wisconsin-Madison

School of Medicine

CONTINUING MEDICAL EDUCATION

Thomas C. Meyer, M.D., Director 608-263-2852  
Barbara E. Wermuth, Secretary 608-263-1671

2715 Marshall Court  
Madison, Wisconsin 53705  
Telephone: 608-263-2850

April 24, 1989

Attorney Robert Ganch  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708

Dear Attorney Ganch:

I am writing to certify that Arne Lagus, M.D. has successfully completed his course of study in Normal Obstetrics.

In completing the 82 hour course he achieved the following objectives:

1. Review the changes occurring during pregnancy and the care of mother and fetus antenatally.
2. Demonstrate obstetrical skills, by performance under supervision of approximately 30 deliveries.
3. Review the mechanisms and management of common abnormalities occurring during labor and delivery.

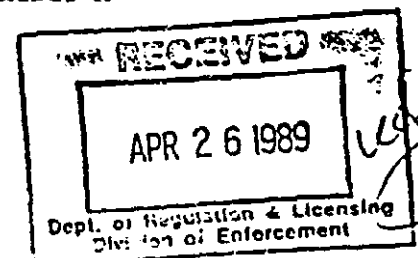
Sincerely yours,

Thomas C. Meyer, M.D.  
Director

TCM:2937k

cc: Arne Lagus, M.D.

EXHIBIT A



Continuing Medical Education Course  
in Normal Obstetrics

Course of Study

Complete a two-week Visiting Fellowship, under the direction of  
Herbert F. Sandmire, M.D.

Evaluation

1. Fulfill the requirements of the Visiting Fellowship  
Result: Satisfied all of the objectives of the program.
2. Written Examination  
Score: 74%
3. Oral Examination  
Result: Satisfactory

2936k

STATE OF WISCONSIN  
BEFORE THE MEDICAL EXAMINING BOARD

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IN THE MATTER OF THE	:	
LICENSE OF	:	
	:	STIPULATION
ARNE T. LAGUS, M.D.,	:	
RESPONDENT.	:	

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It is hereby stipulated between Arne T. Lagus, M.D., personally on his own behalf and his attorney, John C. Carlson, and Robert T. Ganch, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. Arne T. Lagus, M.D., (Respondent) of 208 South Adams Street, St. Croix Falls, Wisconsin 54024, is a physician duly licensed and currently registered to practice medicine and surgery in the State of Wisconsin, and that his license bears #15883 and was granted on January 11, 1967.

2. That the Department of Regulation and Licensing, Division of Enforcement is conducting an investigation of the Respondent, File #81 MED 127, pursuant to Section 448.02(3), Wis. Stats., as a result of receipt by the Medical Examining Board of Findings and an Order of a Patient Compensation Panel in Case #F3-712, dated August 19, 1981, that Arne T. Lagus, M.D. acted negligently and that the negligence caused injury to the claimant patients. Arne T. Lagus consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

3. Arne T. Lagus understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by clear, satisfactory and convincing evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

4. Arne T. Lagus agrees to the adoption of the attached Final Decision and Order by the Medical Examining Board. Respondent agrees to promptly notify the Medical Examining Board upon any substantial variation of his practice from his representations in Finding of Fact 16 of the Final Decision and Order attached hereto and that Board may make recommendations relating to maintaining proficiency in obstetrical clinical skills.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings.



6. If the Board accepts the terms of this Stipulation, the parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. All parties agree that the attorney for the Department of Regulation and Licensing, Division of Enforcement, the Board Advisor assigned to this case, and the attorney for Arne T. Lagus, M.D. may appear before the Medical Examining Board in support of acceptance of this Stipulation and Final Decision and Order.

7. The Division of Enforcement joins Arne T. Lagus, M.D. in recommending the Medical Examining Board adopt this Stipulation and issue the attached Final Decision and Order.

Arne Lagus  
Arne T. Lagus, M.D., Respondent

6-27-91  
Date

John C. Carlson  
John C. Carlson Date  
Attorney For Respondent

7/10/91

Robert T. Ganch  
Robert T. Ganch, Attorney  
Division of Enforcement

8-9-91  
Date

WISCONSIN MEDICAL EXAMINING BOARD

Michael P. Mehr MD  
A Member Of The Board

8-22-91  
Date

RTG:jrb  
DOEATTY-900

## **NOTICE OF APPEAL INFORMATION**

**(Notice of Rights for Rehearing or Judicial Review,  
the times allowed for each, and the identification  
of the party to be named as respondent)**

**The following notice is served on you as part of the final decision:**

### **1. Rehearing.**

**Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of Wisconsin Medical Examining Board.**

**A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.**

### **2. Judicial Review.**

**Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Medical Examining Board**

**within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.**

**The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Medical Examining Board.**

**The date of mailing of this decision is August 26, 1991.**

**227.49 Petitions for rehearing in contested cases.** (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly as may be to the proceedings in an original hearing except as the agency may otherwise direct. If in the agency's judgment, after such rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

**227.52 Judicial review; decisions reviewable.** Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125, decisions of the department of employee trust funds, the commissioner of banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

**227.53 Parties and proceedings for review.** (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) 1 Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board or the consumer credit review board, the credit union review board or the savings and loan review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1 to 4.

2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency.

3. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions

for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

(c) A copy of the petition shall be served personally or by certified mail or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. A court may not dismiss the proceeding for review solely because of a failure to serve a copy of the petition upon a party or the party's attorney of record unless the petitioner fails to serve a person listed as a party for purposes of review in the agency's decision under s. 227.47 or the person's attorney of record.

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer credit review board, the credit union review board, and the savings and loan review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmation, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, shall also be served on the named respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.